

CERCLA 104(e) INFORMATION REQUEST
URGENT LEGAL MATTER: PROMPT REPLY REQUESTED
VIA CERTIFIED MAIL # XXXXXXXXXXXXXXXXXXXX

Lazarus Texas Refinery I, LLC
16055 Space Center Blvd Suite 235
Houston, Texas 77062-6212

Re: Falcon Refinery Superfund Site, Southeast of Ingleside in San Patricio County, Texas
SSID No. 06MC

Dear Sir or Madam:

The U.S. Environmental Protection Agency (EPA) seeks cooperation from the Lazarus Texas Refinery I, LLC (LTRI), a Delaware limited liability company recognized by the Texas Secretary of State to conduct business in Texas, in providing information and documents relating to the Falcon Refinery Superfund Site (Site). Obtained information from you will aid the EPA in its investigation of the release or threat of release of certain hazardous substances, pollutants or contaminants at this Site. Your response will also help the EPA develop a better understanding of activities that occurred at the Site.

This information request is not a determination that you are responsible or potentially responsible for contamination that occurred at the Site. The EPA is sending this letter as part of its investigation of the Site and does not expect you to pay for or perform any site-related activities at this time. If the EPA determines that you are responsible or potentially responsible for response activities at the Site, you will receive a separate letter clearly stating such a determination as well as the basis the EPA has for the determination.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 104(e), 42 U.S.C. § 9604(e), gives the EPA the authority to require you respond to this information request (see Enclosure 1). We encourage you give this matter its full attention, and ***we respectfully request that you respond to this request for information within thirty (30) days of its receipt of this letter.*** You may designate another official with the requisite authority to respond on your behalf. However, failure to respond to this information request may result in the EPA seeking penalties of up to \$37,500 per day of violation. In addition, furnishing false, fictitious or fraudulent statements or representations is subject to criminal penalty under 18 U.S.C. § 1001.

Please provide a written response to Mr. Robert Werner, Enforcement Officer, at the address included in the Information Request. Please refer to the enclosures below, which include important instructions and definitions, as well as the questions for response, in the preparation of your reply to this Information Request.

If you have any questions regarding this letter, contact Mr. Robert Werner at (214) 665-6724. For legal questions concerning this letter, please have your legal counsel contact Ms. Gloria Moran, Attorney, at (214) 665-3193. Thank you for your attention to this matter.

Sincerely yours,

Ben Banipal, P.E.
Acting Associate Director
Technical and Enforcement Branch (SF-T)
Superfund Division

Enclosures (4)

cc: Lazarus Texas Refinery I, LLC, C/O Registered Agent, National Registered Agents, Inc., 1021 Main Street, Suite 1150, Houston, TX 77002.

Lazarus Texas Refinery I, LLC, C/O Lazarus Energy Holdings, LLC, 4400 Post Oak Parkway, Suite 2400, Houston, TX 77027.

Lazarus Texas Refinery I, LLC, C/O Lazarus Energy Holdings, LLC, 1614 Sidney Baker Street, Kerrville, TX 78028-2640.

Lazarus Texas Refinery I, LLC, C/O Blue Dolphin Energy Company, 801 Travis St Ste 2100, Houston, TX 77002-5705.

Lazarus Texas Refinery I, LLC, C/O Jonathan Carroll, 801 Travis St Ste 2100, Houston, TX 77002-5705.

ENCLOSURE 1

FALCON REFINERY SUPERFUND SITE INFORMATION REQUEST

RESPONSE TO INFORMATION REQUEST

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) responds to the release or threat of release of hazardous substances, pollutants or contaminants into the environment to stop additional contamination and to clean-up or otherwise address any prior contamination.

The EPA is requesting information under CERCLA Section 104(e). Section 104(e) may be found in the United States Code (U.S.C.) at Title 42 Section (section is denoted by the symbol "§") 9604(e) 42 U.S.C. § 9604(e).

Pursuant to the authority of CERCLA §104(e), you are hereby requested to respond to the enclosed information request. If you have any questions concerning the Site's history or this information request letter, please contact Mr. Robert Werner, the designated Enforcement Officer for the Site, at phone number (214) 665-6724, fax number (214) 665-6660 or via email at werner.robert@epa.gov. Please mail your response within 30 calendar days of your receipt of this request to the following address:

Mr. Robert Werner, Enforcement Officer
Superfund Enforcement Assessment Section (6SF-TE)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

If you or your attorney has legal questions that pertain to this information letter request, please contact Ms. Gloria Moran at phone number (214) 665-3193 fax number (214) 665-2182 or via email at moran.gloria-small@epa.gov. For contact via mail, use the following address:

Ms. Gloria Moran, Attorney
Office of Regional Counsel (6RC-S)
U. S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

BACKGROUND INFORMATION

The Falcon Refinery Superfund Site (Site) is the location from which the now closed Falcon Refinery had operated. The Site is located southeast of the city limits of the City of Ingleside, in San Patricio County, Texas. The Site's land area approximates 101.5 acres. The Site's land area is comprised of four separate parcels of land; a 9.145 acre parcel, a 50.113 acre parcel, a 28 acre parcel, and a 14.24 acre parcel. The 9.145 acre parcel is situated on the northwest side of where Farm-to-Market Road 2725 and Bishop Road/County Road 4717 intersect. The 50.113 acre parcel is situated on the southeast corner of where Farm-to-Market Road 2725 and Bishop Road/County Road 4717 intersect. The 28 acre parcel is adjacent to the southeast side of the 50.113 acre parcel and both parcels are adjacent to the southwest

side of County Road 4717. The 14.24 acre parcel is bounded on its southeast side by Redfish Bay and contains land areas on both sides of County Road 4692.

Primary processing activities at the now closed Falcon Refinery had been conducted on the 50.113 acre parcel. Transfer of materials between barges and storage tanks occurred at the dock facility on the 14.24 acre parcel.

In May 2000, the Texas Natural Resource Conservation Commission conducted sampling activities at the Site and documented the following hazardous substances: cyclohexane, methylcyclohexane, toluene, ethylbenzene, xylenes (totals), fluoranthene, pyrene, benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, ideno(1,2,3-cd)pyrene, benzo(g,h,i)perylene, aluminum, arsenic, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, selenium, thallium, vanadium, and zinc. The findings of an Expanded Site Inspection, completed in November 2000, revealed releases from the Site of the following hazardous substances: fluoranthene, pyrene, benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, ideno(1,2,3-cd)pyrene, benzo(g,h,i)perylene, dibenz(a,h,)anthracene, barium, manganese, and mercury.

ENCLOSURE 2

FALCON REFINERY SUPERFUND SITE INFORMATION REQUEST

INSTRUCTIONS AND DEFINITIONS

INSTRUCTIONS

1. Please provide a separate narrative response for each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, ***you must supplement*** your response to the U.S. Environmental Protection Agency (EPA). Moreover, should you find, at any time, after submission of your response, that any portion of the submitted information is false or misrepresents the truth, or, though correct when made, is no longer true, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. If you make such a claim, the information covered by that claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in subpart B of 40 CFR Part 2. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
7. Objections to questions. If you have objections to some or all the questions within the Information Request Letter, you are still required to respond to each of the questions.

DEFINITIONS

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any", as in "any documents" for example, shall mean "any and all."
3. The term "arrangement" means every separate contract or other agreement between two or more persons.
4. The terms "document(s)" and "documentation" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with the printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
5. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business. Also provide e-mail addresses.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation [including state of incorporation], partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist. Also provide e-mail addresses.
7. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.

8. The term "person" shall have the same definition as in Subsection 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).
9. The term "Site" shall mean and include the Falcon Refinery Superfund Site (Site). The Site is the location from which the now closed Falcon Refinery had operated. The Site is located southeast of the city limits of the City of Ingleside, in San Patricio County, Texas.
10. The terms "you" or "your" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors and agents.
12. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Parts 260-280, in which case the statutory or regulatory definitions shall apply.

ENCLOSURE 3

FALCON REFINERY SUPERFUND SITE INFORMATION REQUEST

QUESTIONS

1. Please identify the person(s) that answer the below questions on behalf of the Lazarus Texas Refinery I, LLC (LTRI). Please also include that person(s) contact information address, phone number, fax number, and e-mail address.
2. Please explain the organizational relationships, if any, that now exist between LTRI and the following business entities:
 - A. Blue Dolphin Energy Company, a Delaware corporation, recognized by the Texas Secretary of State on March 19, 1987.
 - B. Carroll & Company Financial Holdings LP, a Texas limited partnership, recognized by the TX Secretary of State on March 04, 2005.
 - C. Lazarus Financial, LLC, a Texas limited liability company, recognized by the Texas Secretary of State on March 4, 2005.
 - D. Lazarus Energy Holdings LLC (LEH), a Delaware limited liability company, recognized by the Texas Secretary of State on March 16, 2006.
 - E. Lazarus Energy LLC, a Delaware limited liability company, recognized by the Texas Secretary of State on March 16, 2006.
 - F. LTRI, a Delaware limited liability company, recognized by the Texas Secretary of State on July 19, 2006.
 - G. Lazarus Texas Refinery II, LLC, a Delaware limited liability company, recognized by the Texas Secretary of State on July 20, 2006.
 - H. Apollo Management VI, L.P., a Delaware limited partnership, recognized by the New York Division of Corporations on May 6, 2005 (reported as one of two governing organizations for Lazarus Energy Holdings LLC.)
 - I. AP Energy Investors, LLC, (reported as one of two governing organizations for Lazarus Energy Holdings LLC.)
3. Please answer the following questions that pertain to LTRI and each business entity identified above in question number 2:
 - A. Describe the financial responsibility, if any, that each entity has to support obligations and/or liabilities of LTRI.

- B. Identify the entity and/or entities that directed LTRI to purchase and become the Site's current owner of record.
4. Narrative in a letter from National Oil Recovery Corporation (NORCO), dated February 23, 2012, to Mr. Jonathan Carroll, Director, LEH (buyer) and to Mr. Jonathan Carroll, Director, LTRI (buyer) identifies that NORCO and Norcorom Industries, SRL (NORCO-SRL) agreed to sell the Site for a total of 3.5 million dollars and buyers agreed to pay 3.5 million dollars to NORCO and NORCO-SRL to purchase the Site. Considering this information, please respond to the following:
- A. Identify names and addresses of representatives from NORCO and NORCO-SRL that buyers dealt in this sale agreement.
- B. Identify all payments dates and dollar payments that buyers agreed to pay to NORCO and to NORCO-SRL for this purchase.
- C. Provide copies of documents that confirm dates and dollar payments made by buyers to NORCO.
- D. Provide copies of documents that confirm dates and dollar payments made by buyers to NORCO-SRL.
- E. Are there any documented or undocumented agreements and/or understandings that imply, indicate or specify either buyer will pay NORCO, NORCO-SRL, and/or agents, representatives, shareholders, bondholders, or creditors of NORCO and/or NORCO-SRL any amount greater than 3.5 million dollars for the purchase of the Site? If your answer to this question is yes, please explain.
5. Narrative in the above referenced NORCO letter identifies buyers had been advised of a Removal Action Administrative Order on Consent (AOC) and a RI/FS Remedial Action AOC. Letter further identified that both AOCs existed, that EPA and NORCO were parties to both AOCs, and that buyers had agreed to be jointly and severally responsible for NORCO's costs, expenses, and penalties relating to the two AOCs. Considering upon this information, please respond to the following:
- A. Do you have the professional skill and/or financial ability to be responsible for NORCO's costs, expenses, and penalties relating to the Removal Action AOC? If your answer to this question is yes, please explain.
- B. Do you have the financial ability to be responsible for NORCO's costs, expenses, and penalties relating to the RI/FS Remedial Action AOC? If your answer to this question is yes, please explain.
- C. The EPA sent a letter, dated September 19, 2012, to Richard F. Bergner, registered agent for NORCO, advising that NORCO has failed to replenish the Special Account #2, Falcon Refinery Superfund Site 06MC. The letter also advised Mr. Bergner that the EPA demanded NORCO immediately pay the \$209,036.12 in order to comply with NORCO's RI/FS AOC. Considering buyer's agreement to be jointly and severally responsible for

NORCO's costs, expenses, and penalties relating to the RI/FS AOC, please respond to the following questions:

- 1) Have buyers already paid the \$209,036.12 to NORCO? If your answer to this question is no, please answer the next question.
 - 2) Please identify the date that buyers will pay the \$209,036.12 to NORCO? Unless you answer with a specific payment date, please answer the next question.
 - 3) If buyers have not already paid the demanded amount to NORCO and if buyers are not going to pay the demanded amount to NORCO, do the buyers plan to pay the \$209,036.12 to the EPA? Please explain.
6. Narrative in the above referenced NORCO letter identifies that buyers were aware that the Falcon Refinery, i.e., Site, had been designated by the EPA as a Superfund Site. Letter also identifies that, prior to buyer's purchase of the Site, buyers had conducted their own independent investigation of the Site and had satisfied themselves that the Site was suitable for their intended purpose. Considering this information, did LTRI conduct "all appropriate inquiries" in an attempt to qualify for landowner liability protections provided by Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)? If your answer to this question is yes, please respond to the following:
- A. Provide a copy of a "Phase I Environmental Site Assessment" that was completed prior to the date you became the Site's owner of record, or
 - B. Provide copies of all documents in your possession that identify "all appropriate inquiries" and/or efforts that you believe qualify you for landowner liability protection provided by (CERCLA).

**FACLON REFINERY SUPERFUND SITE
INFORMATION REQUEST**

SUPPORTING DOCUMENTS (SITE INFORMATION)

1. Aerial photo of the Site area overlaid with boundary lines for the four parcels of land that together comprise the Falcon Refinery Site.
- 2., EPA Memorandum dated January 21, 2011, Subject: Enforcement Discretion Guidance Regarding the Affiliation Language of CERCLA's Bona Fide Prospective Purchaser and Contiguous Property Owner Liability Protections.
3. Copy of letter from National Oil Recovery Corporation, dated February 23, 2012, to Mr. Jonathan Carroll, Director, Lazarus Energy Holdings LLC and to Mr. Jonathan Carroll, Director, Lazarus Texas Refinery I, LLC.